

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

JESSE LEE FAIRCLOTH, a/k/a JESSE
LEE HOPKINS,

Petitioner,

v.

MONTANA BOARD OF PARDONS
AND PAROLE,

Respondent.

CV-17-27-BU-BMM

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS**

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations in this case on October 26, 2018. (Doc. 23.) Judge Lynch recommended that the petition for writ of habeas corpus filed by Jesse Lee Faircloth a/k/a Jesse Lee Hopkins (“Faircloth”) be dismissed without prejudice due to Faircloth’s failure to exhaust his state remedies. (Doc. 23 at 3-4.) Judge Lynch recommended that the Clerk of Court enter a judgment of dismissal. (Doc. 23 at 4.) Judge Lynch further recommended that a certificate of appealability be denied. (Doc. 23 at 4.)

The Court’s docket indicates that Judge Lynch’s Findings and Recommendations were mailed to Faircloth at the Montana State Prison. The mail was returned, however, as undeliverable. (Doc. 24.) The Findings and Recommendations were mailed to Faircloth at Missoula Correctional Services on

November 1, 2018. (Doc. 24.) The docket does not indicate that the mail was returned the second time.

Neither party filed objections. The Court reviews findings and recommendations not objected to for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). The Court finds no error in Judge Lynch’s Findings and Recommendations and adopts them in full.

IT IS ORDERED that Judge Lynch’s Findings and Recommendations (Doc. 23) are ADOPTED IN FULL.

IT IS ORDERED that Faircloth’s petition (Docs. 1, 6, 7, 9, 10, 13, 18, 19) is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court shall enter, by separate document, a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 18th day of December, 2018.



Brian Morris
United States District Court Judge